



POLICE DEPARTMENT

July 8, 2010

MEMORANDUM FOR: Police Commissioner

Re: Police Officer Edgar Veras
Tax Registry No. 933453
88 Precinct
Disciplinary Case No. 85257/09

The above-named member of the Department appeared before me on March 4, 2010, charged with the following:

1. Said Police Officer Edgar Veras, while assigned to the 46th Precinct, on or about and between approximately June 9, 2007 and November 21, 2008, did knowingly associate with a person reasonably believed to be engaged in, likely to engage in or to have engaged in criminal activities.

P.G. 203-10, Page 1, Paragraph 5 -- PUBLIC CONTACT --PROHIBITED
CONDUCT

2. Said Police Officer Edgar Veras, while assigned as indicated above on March 19, 2009, did wrongfully and without just cause prevent or interfere with an official Department investigation into said officer's association with a criminal, to wit: said officer stated that he was not informed by Lieutenant John Eagan, 46th Precinct, of the criminal arrest history of his associate [REDACTED] (DOB [REDACTED]) prior to July 7, 2007, knowing that said statement was not in fact true.

P.G. 203-10, Page 1, Paragraph 5 -- PROHIBITED CONDUCT

3. Said Police Officer Edgar Veras, while assigned as indicated above on March 19, 2009, did wrongfully and without just cause prevent or interfere with an official Department investigation into said officer's association with a criminal to wit: said officer stated that he had not engaged in any contact with [REDACTED] (DOB [REDACTED]) subsequent to approximately one week after October 24, 2008, knowing that said statement was not in fact true.

P.G. 203-10, Page 1, Paragraph 5 -- PROHIBITED CONDUCT

¹ Specification No. 2 was dismissed by the Assistant Department Advocate during a pre-trial hearing on November 10, 2009.

4. Said Police Officer Edgar Veras, while assigned as indicated above on November 24 2007, did utilize a Department computer to access department records for personal and non-Departmental purposes.

P.G. 203-06 Page 1, Paragraph 16 PERFORMANCE ON DUTY –
PROHIBITED CONDUCT

The Department was represented by Vivian Joo, Esq., Department Advocate's Office, and the Respondent was represented by John P. Tynan, Esq.

The Respondent, through his counsel, entered a plea of Guilty to the subject charges. A stenographic transcript of the mitigation record has been prepared and is available for the Police Commissioner's review.

DECISION

The Respondent, having pleaded Guilty to Specification Nos. 1, 3 and 4 is found Guilty. Specification No. 2 was dismissed by the Department pre-trial.

SUMMARY OF EVIDENCE IN MITIGATION

The Respondent stated that he was appointed to the Department in July 2003. After completing his training at the Police Academy, he was assigned to the 46 Precinct in the Mount Eden section of the Bronx, where he remained for six years on patrol. He is currently assigned to the 88 Precinct in Brooklyn, where he is full duty and assigned to patrol.

The Respondent stated that he has D and M class notations on his driver's license. He indicated that the "M" stands for "motorcycle," and he has had a motorcycle license for three or four years now. The Respondent testified that he owns a motorcycle, but in

2007 or 2008, he did not belong to any formal or informal group of individuals that liked to ride their motorcycles. He stated that he knew an individual named [REDACTED], who owned a tire shop within the confines of the 46 Precinct. He did not initially meet him through his employment as a police officer. Rather, the Respondent met him when [REDACTED]'s motorcycle was taken away by the 34 Precinct because he did not have a license. [REDACTED] asked the Respondent to "do his cousin a favor, take out the motorcycle with him." The Respondent acknowledged that he brought the motorcycle back from the 34 Precinct, but did not receive compensation for doing so. Since that first meeting with [REDACTED], the Respondent has ridden motorcycles and socialized with him on a few occasions.

The Respondent testified that in the summer of 2007, he was riding his motorcycle with [REDACTED] when the police stopped them. [The parties stipulated that the date was July 7, 2007.] No arrest was made at that time, but [REDACTED]'s motorcycle was impounded. The Respondent stated that he had a valid motorcycle class M license at the time but did not recall if [REDACTED] did.

At a later time, the Respondent was notified by the Police Department that he was going to be questioned pursuant to Patrol Guide 206-13 as part of an official Department investigation of his relationship with [REDACTED]. The Respondent testified that he did not learn at the time of the interview that [REDACTED] had a prior criminal record while they were socializing. He first learned of [REDACTED]'s criminal record "in the Department trials," at which time he was told that [REDACTED] had some prior felony convictions. He was also told not to contact [REDACTED] at any point thereafter, but he acknowledged that he "did call him a couple of times" after that point. He said that he called him "just to let him know in

regards to the situation that, you know, our friendship I guess couldn't continue" due to [REDACTED]'s past and the Respondent's employment. The Respondent estimated that he called [REDACTED] four to six times, with the longest conversation lasting "probably four minutes."

The Respondent testified that, as part of this investigation, he was questioned by the Department on a second occasion regarding his contact with [REDACTED]. At that time, he was also asked whether he had made any phone calls to [REDACTED] but the Respondent did not believe that he told the investigators whether or not he had made contact with him. During his third interview, which came about based on his answers in the second interview, the Respondent was again asked whether or not he had any contact with [REDACTED] after the first time that he was made aware of his criminal record. [REDACTED] agreed that he changed his answer in the third interview to correct what he stated in the second interview. The Respondent testified that he has not had any physical or verbal contact with [REDACTED] since making the phone calls that he has acknowledged nor has he "seen him around."

The Respondent agreed that he is aware that the Patrol Guide prohibits the use of the Mobile Digital Terminal (MDT) or computer system to "run" people's names that is not part of required police business. He acknowledged that there came an occasion where he ran his own information on the computer. He stated, "In the beginning of the tour, usually I used to run my plate just to make sure the MDT was working properly." He said that he was informed, after the fact, that it was improper to do so, and he has not done so since then. He reiterated that he was using the MDT for non-Departmental reasons to run his own name to ensure that it was working.

The Respondent stated that he has made approximately 80 arrests in his career, and has assisted in approximately 50 other arrests. He denied that he had a disciplinary record prior to this current matter nor has he received discipline since this case. He believed that he received a rating of 3.5 on his last annual performance evaluation, which is a "good" rating." He stated that he has not received any command disciplines or minor violations for the past two years at the 46 Precinct or at the 88 Precinct, with the exception of a minor violation for not having his "escape hood" [tactical response hood] attached to his thigh while on patrol.

On cross-examination, the Respondent agreed that he has known [REDACTED] since 2006 and met him at the tire shop located within the confines of the Respondent's prior command, the 46 Precinct. He testified that he had spoken with [REDACTED] on the telephone during their relationship and they had socialized on occasion by riding motorcycles together. He said that he learned that [REDACTED] was arrested by members of the 46 Precinct when he was interviewed by the Department, but conceded that he knew of [REDACTED]'s arrest in June 2007 because he "saw him being hauled into [his] command by a van." He acknowledged that, at that point, he knew that [REDACTED] was arrested because the 46 Precinct was his command.

The Respondent testified that on July 7, 2007, the day he was stopped by the Highway Unit, there was a checkpoint so he and [REDACTED], who were riding together, stopped. At some point, the Respondent identified himself to the Highway Unit as a member of the Department, but he did not have his shield or identification card on him. At that point, Lieutenant Egan from the 46 Precinct responded to the scene to verify that the Respondent was a member of the Department. The Respondent testified that Egan

did not tell him, at that time, that [REDACTED] had a criminal record. He then conceded that Egan did inform him at the scene that [REDACTED] was a "known felon" and the Respondent was not to associate with him.

The Respondent testified that he has had three official Department interviews: the first on October 24, 2008; the second on March 19, 2009; and the third on April 2, 2009. He agreed that he was truthful during all three interviews. He believed that during the first interview on October 24, 2008, he was asked about his relationship with [REDACTED] and he told investigators that he ([REDACTED]) was a friend that he rode motorcycles with. He agreed that, at the end of that interview, he was told by the investigator not to associate with [REDACTED] because of his criminal record.

The Respondent testified that during the second official Department interview on March 19, 2009, he was asked about his Department computer usage and he admitted that he ran his motorcycle plate number on Department computers. When asked if he used the Department computer for personal reasons, he stated, "I guess so, yes" since he was not authorized to run the information for his own personal motorcycle. He acknowledged that when asked during that second interview if he had any contact with [REDACTED], he told the investigator that he spoke with [REDACTED] a week after the first official Department interview. The Respondent stated that the telephone conversation was initiated by [REDACTED], who informed him that detectives were asking about the Respondent at his shop. He agreed that at the conclusion of the interview, he was again warned not to associate with [REDACTED]. He reiterated that he told investigators that he only had contact with [REDACTED] during that one telephone call.

The Respondent agreed that during the third official Department interview on April 2, 2009, he was shown cell phone records that he acknowledged were his. He testified that investigators asked him about the six telephone calls that he made to [REDACTED] in which he used code *67 in each instance. He was asked by the investigators the significance of using *67 and he told them it was to block his identification from showing up when he called [REDACTED].

He agreed that he had testified during this mitigation that he called [REDACTED] to inform him he could no longer have any contact with him. He stated that it was his testimony today that he called [REDACTED] six times to inform him of no future contact, but it was also to ask [REDACTED] to return some motorcycle equipment, such as helmets, that was lent to him. He stated, "I was calling him to tell him I needed it back. That's why the phone calls were short. So you know, at one point I told him I was missing some equipment, if he can just give it back to me. That's why I called him with star 67 to block the phone number." He stated that he did not tell the investigators during the interview that he had made those phone calls to [REDACTED] to "cut ties" with him because the lieutenant who was interviewing him had a "little disagreement" with regards to the time period of the calls. He stated, "So she kept saying it was like for hours that I was talking with him. After that, we really my lawyer couldn't get an agreement." He said that, although it "definitely was important" to inform the investigators of the reason why he called [REDACTED] he "didn't have the chance." He stated that the investigators were unsure if the conversations lasted for seconds or minutes.

The Respondent agreed that at the end of the third interview, he was asked if he had anything to add but he did not add what he had just stated during this mitigation,

despite its importance. He stated, "I believe it was important. I was just under a lot of, you know, stress I guess."

The Respondent testified that the six phone calls were made during November 2008, after he was told twice not to associate with [REDACTED]. The Respondent was asked, "So it's fair to say that you basically disregarded the instructions, right?" to which he responded, "I guess so, yes."

PENALTY

In order to determine an appropriate penalty, the Respondent's service record was examined, see Matter of Pell v. Board of Education, 34 N.Y.2d 222(1974).

The Respondent was appointed to the Department on July 1, 2003. Information from his personnel folder that was considered in making this penalty recommendation is contained in the attached confidential memorandum.

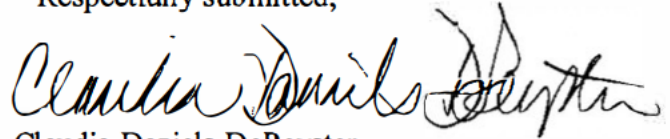
Specification No. 2 was dismissed by the Assistant Department Advocate in a pre-trial conference. The Respondent has pleaded Guilty to knowingly associating with a person engaged in or likely to have engaged in criminal activity. He has also pleaded Guilty to stating during an Official Department interview that he had no contact with [REDACTED] knowing that the statement was not true; and using a Department computer to access records for personal and non-Departmental purposes.

The Department has recommended a penalty of 30 vacation days. While some criminal association cases warrant a lesser penalty, (i.e., Disciplinary Case No. 82854/07, in which an eighteen-year member with one prior adjudication forfeited 15 vacation days for continuing a personal relationship with a woman after learning that she had been

arrested for drugs), such is not this case. I do not see that there was any mitigation here. Respondent was warned in July 2007 when he was initially pulled over by uniformed members of the service while in the company of [REDACTED] that [REDACTED] was a convicted felon and that the Respondent should not associate with him. He was warned again during his first Department interview on October 24, 2008 not to associate with [REDACTED]. The Respondent, however, defied the instruction and admitted to calling [REDACTED] on six occasions using *67 to block his phone number. He denied the contact in his interview held on March 19, 2009, but later admitted to the contact in an interview held on April 2, 2009.

Based on the Respondent's defiance of the instruction by the Department on two occasions, coupled with his denial of his action and his use of Department computers for non-Department purposes, I recommend that he forfeit 30 vacation days.

Respectfully submitted,



Claudia Daniels-DePeyster
Assistant Deputy Commissioner – Trials



POLICE DEPARTMENT
CITY OF NEW YORK

From: Assistant Deputy Commissioner Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
POLICE OFFICER EDGAR VERAS
TAX REGISTRY NO. 933453
DISCIPLINARY CASE NO. 85257/09

In 2007, the Respondent received an overall rating of 3.0 "Competent" on his annual performance evaluation. In 2008 the Respondent received an overall rating of 4.0 "Highly Competent," and in 2009 his overall rating was 3.5 "Above Competent." He has not been awarded any medals in his career to date.


[REDACTED]

[REDACTED]

[REDACTED]

On January 28, 2010 the Respondent was placed in Level II Discipline Monitoring based on his overall performance.

For your consideration.


Claudia Daniels-DePeyster
Assistant Deputy Commissioner -Trials